

**COURT OF APPEALS  
DECISION  
DATED AND FILED**

**June 18, 2013**

Diane M. Fremgen  
Clerk of Court of Appeals

**NOTICE**

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See WIS. STAT. § 808.10 and RULE 809.62.

**Appeal No. 2012AP717**

**Cir. Ct. No. 2012CV1588**

**STATE OF WISCONSIN**

**IN COURT OF APPEALS  
DISTRICT I**

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**STATE OF WISCONSIN EX REL. ALVIN HENRY DANIELS,**

**PETITIONER-APPELLANT,**

**V.**

**STATE OF WISCONSIN,**

**RESPONDENT-RESPONDENT.**

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APPEAL from order of the circuit court for Milwaukee County:  
WILLIAM W. BRASH, III, Judge. *Affirmed.*

Before Curley, P.J., Fine and Kessler, JJ.

¶1 PER CURIAM. Alvin Henry Daniels appeals, *pro se*, from a circuit court order dismissing his petition for a writ of *habeas corpus*. Because *habeas* relief is not appropriate given that Daniels is no longer in custody in connection with the sentences he challenges, we affirm.

## BACKGROUND

¶2 Daniels writes: “First, it should be noted that the issues and grounds for relief raised in Daniels’[] *habeas corpus* petition are identical to the claims and issues he attempted to raise in a previous petition filed pursuant to [WIS. STAT.] § 974.06 [(2009-10)].”<sup>1</sup> (Italics added.) In Daniels’ prior appeals stemming from the § 974.06 proceedings, we set forth some of the relevant background information:

In 1983, the State charged Daniels with one count of forgery in each of two Milwaukee County cases. Daniels pled guilty to both charges. In January of 1984, the circuit court sentenced Daniels to two concurrent eighteen-month prison terms. On May 14, 2010, Daniels moved to vacate both judgments of conviction pursuant to WIS. STAT. § 974.06. He asserted that the State obtained the convictions in violation of his constitutional rights and that a state court in Alabama used the unlawful convictions as a basis for enhancing a sentence imposed on him there. The circuit court denied the motions because Daniels is no longer in custody in connection with either forgery conviction.

*State v. Daniels*, Nos. 2010AP1421/1422, unpublished op. and order at 2 (WI App Oct. 26, 2011). Daniels appealed, and we affirmed. *Id.* at 1.

¶3 In 2012, Daniels filed the underling petition for a writ of *habeas corpus* and again asked the circuit court to vacate the Milwaukee County judgments of convictions based on his contention that they were obtained in violation of his constitutional rights. The State filed a motion to dismiss asserting

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<sup>1</sup> All references to the Wisconsin Statutes are to the 2011-12 version unless otherwise noted.

that Daniels was not entitled to a writ of *habeas corpus*, and the circuit court agreed.

### DISCUSSION

¶4 Daniels acknowledges that we previously held that he could not proceed under WIS. STAT. § 974.06. He argues, however, that because he has repackaged his claims in a petition for a writ of *habeas corpus*, we must rule on the merits, and we should appoint counsel for him for any further proceedings.

¶5 Unfortunately for Daniels, as the State points out, the same problem that plagued his attempt to collaterally challenge his sentences under WIS. STAT. § 974.06 plagues his petition for a writ of *habeas corpus*. Namely, “that the remedies provided in [§] 974.06 ... and the writ of *habeas corpus* are limited solely to those persons confined under sentence of a state court.” *State v. Schill*, 93 Wis. 2d 361, 373, 286 N.W.2d 836 (1980).

¶6 Daniels alleged in his petition that he can proceed because he is in custody serving a sentence in Alabama that was enhanced in reliance on his Wisconsin convictions. But, in *State v. Bell*, 122 Wis. 2d 427, 362 N.W.2d 443 (Ct. App. 1984), we explained that “our supreme court meant the sentencing court which imposed the sentence under attack when it utilized the phrase ‘state court.’” *Id.* at 429 (citation omitted). As we explained in our prior opinion:

In *Bell*, as here, a person serving a sentence imposed by another state’s court filed a postconviction motion under WIS. STAT. § 974.06. In *Bell*, as here, the movant sought relief on the ground that the foreign state’s court had imposed an enhanced sentence based on an expired Wisconsin conviction. In *Bell*, we held that the movant could not proceed under § 974.06 *because the movant was not in custody under sentence of the Wisconsin courts*. We must apply the same rule here.

*See State v. Daniels*, Nos. 2010AP1421/1422, unpublished op. and order at 3 (WI App Oct. 26, 2011) (citations omitted; emphasis added). Daniels offers no explanation for why a different result should follow simply because his present action stems from a petition for a writ of *habeas corpus*.

¶7 Additionally, as he did in his prior appeals, Daniels attempts to support his argument by citing federal cases. He does not, however, develop his argument as to why these cases should control the situation at hand, i.e., a Wisconsin state court applying state *habeas corpus* law. We need not consider undeveloped arguments. *See State v. Pettit*, 171 Wis. 2d 627, 646, 492 N.W.2d 633 (Ct. App. 1992).

¶8 The circuit court properly dismissed Daniels' petition.

*By the Court.*—Order affirmed.

This opinion will not be published. *See* WIS. STAT. RULE 809.23(1)(b)5.

